

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GENENTECH, INC. and CITY OF HOPE,

Plaintiffs,

v.

SAMSUNG BIOEPIS CO., LTD.,

Defendant.

C.A. No. 18-cv-1363-CFC

REDACTED PUBLIC VERSION

**STIPULATION AND [PROPOSED] ORDER REGARDING CLAIM CONSTRUCTION
OF U.S. PATENT NOS. 6,627,196, 7,371,379, 7,485,704 AND 10,160,811**

WHEREAS Plaintiffs Genentech, Inc. and City of Hope have sued Defendant Samsung Bioepis Co., Ltd. for infringement of, among other things, U.S. Patent Nos. 6,627,196 (“the ’196 patent”), 7,371,379 (“the ’379 patent”), 7,485,704 (“the ’704 patent”), and 10,160,811 (“the ’811 patent”);

WHEREAS the parties initially identified the terms “about 18 °C” and “performing subsequent purification of compositions comprising said protein by Protein A chromatography at a [temperature range]” in claims 6 and 12 of the ’704 patent as claim terms for construction in this case (which were briefed in the Revised Joint Claim Construction Brief (D.I. 94) at pages 113-123);

WHEREAS the parties have agreed to constructions for the terms “about 18°C” and “performing subsequent purification of compositions comprising said protein by Protein A chromatography at a [temperature range]” in claims 6 and 12 of the ’704 patent;

WHEREAS the parties initially identified the term “an initial dose” in claims 11 and 22 of the ’196 patent, claims 11 and 21 of the ’379 patent, and claims 6 and 7 of the ’811 patent as a claim term for construction in this case;

WHEREAS Samsung Bioepis is currently approved to market its trastuzumab biosimilar product for all indications in the Herceptin® label;

WHEREAS Plaintiffs believe there is no ripe claim construction dispute for the Court to resolve with respect to the term “an initial dose” in claims 11 and 22 of the ’196 patent, claims 11 and 21 of the ’379 patent, and claims 6 and 7 of the ’811 patent (which was briefed in the Revised Joint Claim Construction Brief (D.I. 94) at pages 3-34);

NOW THEREFORE, subject to the approval of the Court, it is hereby stipulated and agreed by the Parties that, for purposes of this case:

1. The term “about” in claims 6 and 12 of the ’704 patent shall mean “no more than $\pm 1^{\circ}\text{C}$ ”;

2. The term “performing subsequent purification of compositions comprising said protein by Protein A chromatography at a [temperature range]” in claims 6 and 12 of the ’704 patent shall mean “performing subsequent purification of compositions comprising said protein by Protein A chromatography, wherein the composition being purified is at a [temperature range]”; and

3. The term “an initial dose” in claims 11 and 22 of the ’196 patent, claims 11 and 21 of the ’379 patent, and claims 6 and 7 of the ’811 patent shall mean “the first dose of the claimed antibody given to the patient as part of a treatment regimen.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

/s/ Frederick L. Cottrell, III

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Dated: April 22, 2019

SO ORDERED this _____ day of _____, 2019.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2019, true and correct copies of the foregoing document were caused
be served on the following counsel in the manner indicated:

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